

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRENCE OTIS JACKSON,

Defendant-Appellant.

UNPUBLISHED

July 29, 1997

No. 189326

Recorder's Court

LC No. 94-011293 FC

Before: Jansen, P.J., and Wahls and P.R. Joslyn*, JJ.

MEMORANDUM.

Defendant appeals by right his jury conviction for two counts of armed robbery and one of unlawfully driving away an automobile. He contends that his conviction of two counts of armed robbery, where only one victim had a knife placed to his throat, is erroneous.

While obtaining money or property by assault is one means of committing armed robbery, an equivalent means is by placing in fear in lieu of assault. *People v Jury*, 3 Mich App 427; 142 NW2d 910 (1966). Under the transactional approach to armed robbery, the key issue is whether the forceful act was used to accomplish the taking of the property of another. *People v LeFlore*, 96 Mich App 557, 562; 293 NW2d 628 (1980). Here, the second victim was within a very few feet of defendant and the first victim while defendant was holding a knife to the throat of the other victim. This second victim disembarrassed himself of money and jewelry at defendant's demand in a manner which was clearly not voluntary, so that the evidence sufficed to warrant a finding that this victim was placed in fear. *People v Henderson*, 6 Mich App 379; 149 NW2d 258 (1967); *People v Lawson*, 65 Mich App 562, 566; 237 NW2d 559 (1975). Accordingly, the trial court's supplemental jury instruction was, on the facts of this case, correct in apprising the jury that defendant could be convicted of robbery of the second victim even though only the first victim was assaulted.

* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Kathleen Jansen

/s/ Myron H. Wahls

/s/ Patrick R. Joslyn